

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: NEIL PRICE
DEPUTY ATTORNEY GENERAL

DATE: FEBRUARY 19, 2010

SUBJECT: FIRM ENERGY SALES AGREEMENT BETWEEN IDAHO POWER
COMPANY AND CARGILL INCORPORATED, CASE NO. IPC-E-10-02

On January 29, 2010, Idaho Power Company (“Idaho Power” or “Company”) filed an Application with the Commission seeking approval, in accordance with *Idaho Code* § 61-503, RP 52 and the applicable provisions of the Public Utility Regulatory Policies Act of 1978, of its Firm Energy Sales Agreement with Cargill Incorporated (“Cargill”) under which Cargill would sell and Idaho Power would purchase electric energy generated by the Bettencourt Dry Creek Biofactory (“Facility”) located near Hansen, Idaho. *Application* at 1.

THE AGREEMENT

“On January 22, 2010, Idaho Power and Cargill entered into a Firm Energy Sales Agreement (“Agreement”). . . .” *Id.* at 2, Attachment No. 1. The Agreement is for a 10-year term and utilizes “the Non Levelized Published Avoided Cost Rates as currently established by the Commission for energy deliveries of less than 10 average megawatts (“MW”).” *Id.* at 3

Idaho Power states that Cargill is an existing Schedule 86 partner providing energy to the Company and that it will utilize the “compliance data (i.e., nameplate capacity rating, engineering certification, insurance certificates, etc.) previously provided under the Schedule 86 requirements” to review and use for compliance with this Agreement if applicable. *Id.*

“The nameplate rating of this Facility is 2.25 MW.” *Id.* “Cargill will be required to provide data on the Facility that Idaho Power will use to confirm that under normal and/or average conditions the Facility will not exceed 10 average MW on a monthly basis.” *Id.* Any

energy that exceeds 10 aMW per month, and that does not exceed the Maximum Capacity Amount, will be accepted but not purchased or paid for by Idaho Power. *Id.*

The Scheduled Operation Date for the Agreement is 30 days after the approval of the Agreement by the Commission. *Id.* The Agreement includes a formula for the assessment and calculation of Delay Liquidated Damages and associated Delay Security provisions if Cargill fails to achieve the targeted Operation Date. *Id.*; *see also* Article V of the Agreement. The Agreement states that it is effective once “the Commission has approved all of the Agreement’s terms and conditions and declared that all payments Idaho Power makes to Cargill for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.” *Id.* at 4.

The Agreement places various conditions and requirements in order for Idaho Power to accept energy from Cargill. *Id.* Idaho Power states that if the Commission approves the Agreement the effective date of the Agreement will be January 22, 2010. *Id.*

The Agreement includes non-levelized published avoided cost rates consistent with past applicable IPUC Orders. *Id.* Interconnection with the Facility and applicable charges have been completed in accordance with the parties’ existing Schedule 86 agreement transacted in 2008. *Id.*

STAFF RECOMMENDATION

Staff has reviewed Idaho Power’s Application and recommends that it be processed through Modified Procedure with a corresponding 21-day comment period.

COMMISSION DECISION

Does the Commission wish to process Idaho Power’s Application through Modified Procedure with a 21-day comment period?



Neil Price
Deputy Attorney General

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